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UNITED STATES DISTRICT COURT
DISTRICT OF CALIFORNIA, NORTHERN DIVISION
SAN JOSE DIVISION

JOSEPHINE SMITH, an individual; and A.S., a
minor child, by and through her guardian ad
litem, JOSEPHINE SMITH,

Plaintiffs

vs.

CITY OF SANTA CLARA, a public entity;
CITY OF SANTA CLARA POLICE
DEPARTMENT, a department of the CITY OF
SANTA CLARA; SANTA CLARA POLICE
INVESTIGATOR HENDERSON; SANTA
CLARA POLICE SERGEANT HILL; and
Does 1-100, inclusive,

Defendants,

Case No.: CV 11-03999 LHK

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO PERMIT FILING OF FIRST
AMENDED COMPLAINT**

STIPULATION

Subject to the approval of the Court, the parties stipulate as follows:

1. On August 15, 2010, plaintiffs, Josephine Smith and A.S., filed the Complaint in this action.

2. In paragraph 9 of their Complaint, plaintiffs alleged they were ignorant of the true names and capacities of defendants sued therein as Does 1 through 100, and therefore sued these defendants by fictitious names.

3. Clay Rojas is currently serving a 36-month term in the Federal Correctional Institution in Big Spring, Texas ("FCI, Big Spring").

4. On June 13, 2012, the parties took the deposition of Mr. Rojas at FCI, Big Spring. Mr. Rojas was represented by Mark Davis, a California attorney.

5. During his deposition, Mr. Rojas testified that on October 7, 2010, the date of the incident which is the subject of the instant civil litigation, he was a Santa Clara Police Department ("SCPD") officer.

6. Mr. Rojas also testified that, during the October 7, 2010 incident, he spoke with plaintiff, Josephine Smith, and physically restrained and handcuffed her.

7. Defendants do not oppose the filing of a First Amended Complaint naming Mr. Rojas as Doe 1.

8. Defendants do not waive any right to challenge the First Amended Complaint.

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9. Defendants shall have 20 days from service of the First Amended Complaint to file responsive pleadings.

DATED: June 22, 2012

McMANIS FAULKNER

/s/ Brandon Rose, Esq.

JAMES McMANIS

BRANDON ROSE

Attorneys for Plaintiffs

DATED: June 22, 2012

RANKIN, LANDSNESS, LAHDE,
SERVERIAN & STOCK

/s/ Michael Serverian, Esq.

MICHAEL C. SERVERIAN

Attorneys for Defendants

~~PROPOSED~~ ORDER

The Court approves the foregoing Stipulation and orders as follows.

IT IS SO ORDERED:

1. Plaintiffs may file a First Amended Complaint naming Clay Rojas as Doe 1.

2. Defendants shall have 20 days from service of the First Amended Complaint to file responsive pleadings.

DATED: June 25, 2012



UNITED STATES DISTRICT COURT JUDGE